

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States District Court
Southern District of Texas
FILED

MAY 22 2018

David J. Bradley, Clerk of Court

United States of America

v.

Rachael Johnson

Case No.

H18-C851M

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of see below in the county of Harris in the
Southern District of Texas, the defendant(s) violated:

Code Section

Offense Description

In or about May 2014, within the Southern District of Texas, the defendant, Rachael Johnson, knowingly and willfully entered into an agreement, a combination, and a conspiracy with others known and unknown to commit the offense of Theft of Public Money against the United States, in violation of 18 USC 641, all in violation of 18 USC 371.

This criminal complaint is based on these facts:

See attached affidavit.

☒ Continued on the attached sheet.

Complainant's signature

IRS-CI Special Agent Aaron Gogley

Printed name and title

Sworn to before me and signed in my presence.

Date:

May 22, 2018



Judge's signature

City and state:

Houston, Texas

Magistrate Judge Frances Stacy

Printed name and title

AFFIDAVIT

I, Aaron Gogley, being first duly sworn, hereby depose and state as follows:

Summary

I seek an arrest warrant for Rachael Johnson and submit that there is probable cause to believe that she has conspired to commit the theft of public money, in violation of 18 U.S.C. § 371. Six other people have pled guilty to filing false federal income tax returns to obtain fraudulent tax refunds. Typically, the group fabricated income and deductions. Sometimes, they used stolen identities.

That said, it appears that at least one more conspirator has not yet been charged: Rachael Johnson. Based on corroborating evidence gathered during the investigation – including an undercover purchase of a false tax return from Rachael – I believe Rachael has been filing fraudulent tax returns since at least 2014; in fact, I believe she is continuing to do so now in 2018.

Introduction and Agent Background

1. I am a Special Agent of the Internal Revenue Service Criminal Investigation (IRS-CI), presently assigned to the FBI's Houston Cyber Task Force. I have been a Special Agent since 1998. I have received training and instruction in federal criminal laws and conducted numerous fraud investigations during my assignment with the IRS.
2. The facts set forth in this affidavit are based upon my own personal observations, my training and experience, as well as information obtained during this investigation from other sources, including: (a) other agents from the FBI, and other law enforcement personnel involved in this investigation; (b) statements made or reported by various witnesses with personal knowledge of relevant facts; and (c) my review of records obtained during the course of this investigation, as well as summaries and analyses of such documents and records that have been prepared by others.
3. Because this affidavit is submitted for the limited purpose of establishing probable cause, I have not set forth each and every fact I have learned in connection with this investigation. Where conversations and events are referred to herein, they are related in substance and in part, and where figures and calculations are set forth herein, they are approximate.
4. As set forth herein, I submit there is probable cause to believe that Rachael Johnson has conspired to commit the theft of public money, in violation of 18 U.S.C. § 371.

Facts Supporting Probable Cause

The conspiracy to commit Stolen Identity Refund Fraud (SIRF)

6. Previously, the FBI had executed a search warrant on an apartment which contained computers, cell phones, and notebooks full of handwritten lines of personal identifiers, all of which were evidence of a conspiracy to file false federal income tax returns and obtain fraudulent refunds. In addition, this apartment also contained magnetic stripe cards that were used to electronically receive fraudulent refunds; essentially, instead of paying tax refunds by check or by electronic deposit into a bank account, the U.S. Treasury can, at the taxpayer's request, also direct tax refunds to an account linked to a magnetic stripe card.
7. As a result of that investigation, six defendants have now pled guilty to, among other things, conspiring to steal public money: James Michael Curtis Johnson (A.K.A. King Benji or Curt), Joseph Johnson, Donald Perry (A.K.A. Buddha), Enitra Shante Pickett (A.K.A. Enitra Johnson), Joshua Britton (A.K.A. Nice), and D'angela Domio. Essentially, they did the following:
 - The conspirators obtained means of identification of taxpayers such as name, Social Security Number, and others, sometimes with the permission of the taxpayers – but sometimes without permission.
 - The conspirators used these means of identification to prepare fraudulent tax returns, which listed false information such as income, deductions, or credits, to make it appear as if the taxpayer was entitled to a refund when in fact, the taxpayer was not entitled to that refund.
 - The conspirators filed these fraudulent tax returns with the Internal Revenue Service (IRS) to claim refunds to which they were not entitled.
 - When the U.S. Treasury Department paid the refund, the conspirators withdrew the money, divided the proceeds, and used the money to fund their lifestyles.

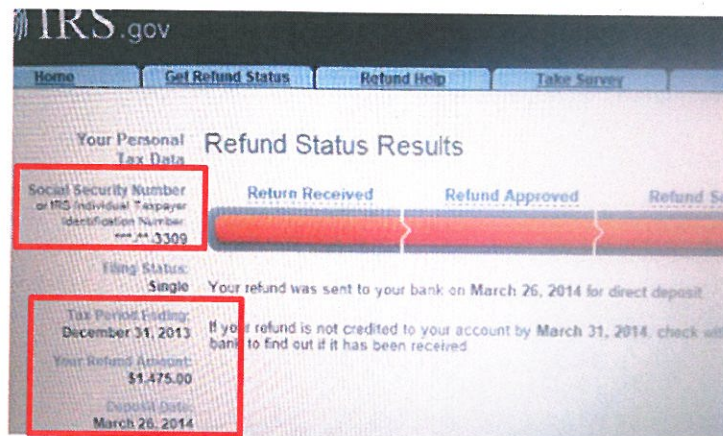
Rachael Johnson participated in this conspiracy as well

8. I have learned that Rachael Johnson also participated in that conspiracy.
9. On March 10, 2014, a fraudulent return using the name and SSN of victim M.S.¹ was filed with the IRS. M.S., who was interviewed on June 26, 2015 told investigators

¹ I use initials here to protect the victim's privacy, but I have the full name.

that she did not authorize her identifiers to be used – or a return to be filed in her name.

10. Moreover, M.S. confirmed that this return was fraudulent because the following were false:
 - Employer (“Spencer Reed Group”) – M.S. has not been employed since 2006
 - Occupation (“recruiter”)
 - Phone number
 - Account number to which return was to be paid
 - M.S. did not authorize this to be filed
11. We can infer that it was the conspirators – including Rachael – who filed this return. On March 27, 2014, the day after the Treasury issued a refund to M.S., Joseph Johnson’s Blu phone (seized by the FBI during a search warrant) texted a picture showing an IRS.gov refund status to 281-224-4933. Here is a close-up:



12. Although this refund status does not list the taxpayer’s name, an IRS employee is expected to testify that this status was for the fraudulent return obtained in M.S.’s name: for tax year 2013, the only \$1,475.00 refund deposited on March 26, 2014 associated with an SSN the last four digits of which were 3309 belonged to victim M.S.
13. The phone number (281-224-4933) that Joseph texted this picture to belonged to Rachael:
 - Rachael listed that phone number on her tax returns for tax year 2013 (filed on Feb. 1, 2014, a few weeks before this text message was sent to her).
 - Rachael Johnson was still using this number in Fall 2017 and March 2018 to communicate with an undercover agent.

14. Further, bank statements show that on Mar. 26, 2014, the Intuit's Tax Preparer Group (related to TurboTax) deposited \$1,412.55 was deposited into Domio's JDW Tax Services account (BBVA 9797). This amount represents the \$1,475 refund minus \$29.99 TPG fee; \$29.99 TurboTax fee; and \$2.47 for state tax for POS products. Bank records confirm that Domio drained this \$1,412 the same day. Having interviewed Domio, I expect that Domio will testify that she withdrew the money and gave it to Rachael.

In November 2017, Rachael Johnson meets the UC and fabricates a 1040EZ income tax return for the UC

15. Rachael continues to participate in tax crimes. Around November 2, 2017, the UC received a call from Rachael Johnson at 281-244-4933, who confirmed that the UC did not need to bring anything; the UC only needed to fill out a form when she met with Rachael.
16. Later, on November 2, 2017, the UC met with Rachael Johnson at 10333 Harwin Drive, Ste 433, Houston, TX.
17. Rachael confirms that she is the leader of the office and her only employee is Kathy – and that “I only really typically use her [Kathy] like during tax season.”
18. Rachael says she can do a 1040 (income tax return form 1040) for the UC. Rachael's first step is to fabricate income for the UC, so she asks, “How much do you want to say you made for last year?” The UC responds that her “man pays for everything,” that is, the UC has no income. Rachael responds by brainstorming with the UC about how much is an appropriate amount to fabricate for the tax return that will not be too high to get the UC's “man” in trouble. Rachael eventually suggests, “So, for last year, you want to do, like, 30-something thousand?”
19. Rachael says, “I've been doing this since I was 17” (since 2007, based on her birth date) and that “I used to work for my mom.” (This is consistent with the fact that in 2011, Rachael's mother, Marcia Johnson, was permanently enjoined from preparing taxes (4:11-cv-458, Dkt #19) because Marcia had been “negligently and willfully claiming frivolous and meritless federal fuel tax credits that had no realistic possibility of being sustained on the merits. ... [T]he amounts claimed were so exaggerated that no reasonable person could conclude they were anything but deliberately fabricated.” In fact, as part of that investigation, Rachael Johnson had been interviewed by the IRS.)
20. Back to the UC's meeting with Rachael, the conversation then shifts to obtaining a false income tax refund. The UC asks, “So, how much you think I can get?” Rachael asks, if the UC worked last year. The UC replies in the negative, and that “I'm just trying to file, you know, to get my own money.” Again, both Rachael and

the UC have been discussing how the UC has no income and thus, would not be entitled to any income tax refund.

21. Rachael responds, "It's just kind of hard to do that without any dependents. Like, if you had kids to carry and you worked, then I could have gave you income and then they would have paid you just strictly the EIC [Earned Income Credit] off the kids."
22. The UC asks if Rachael had spare names of dependents they can list on her return to get the UC a fraudulent refund: "I thought y'all normally keep some stuff, you know, to hook me up." Rachael pauses to ask the UC sign and backdate the document to February 12, 2017: "So, I backdated it like you filed in February of this years, February 12th ... You can just sign and date it for February just to make it seem like you – you already had this."
23. The UC signs, and then eventually follows up, "So, now back home, they be like, you know, having some kids they can put on there. You don't got none you can hook me up with?"
24. Rachael does not say that she does not fabricate dependents. Instead, she points out, "Tax season is over with." And she is right: this conversation takes place in November 2017, long after April 15th.
25. Rachael then says, "Are you talking about for next year? ... Whatever kids I had already – they already got filed. Yeah. They have at the very beginning the year." Based on my training, my experience, and this investigation, I understand that Rachael had names of children she could falsely list as dependents, but that she had already used them earlier in the year. (If the same child was listed as a dependent on more than one tax return, this would raise a red flag with the IRS.)
26. When the UC asks if she comes back, whether Rachael can hook her up with false dependents to list on her income tax return, Rachael replies, "If I have some."
27. Rachael then gives the UC a backdated 1040EZ tax return reporting \$38,765 in fabricated income, and check stubs in exchange for \$40.

As of March 8, 2018, Rachael Johnson is still offering to fabricate tax documents

28. On March 8, 2018, the IRS-CI's UC again texted Rachael Johnson at 281-224-4933, and asked if this was still her number. Rachael said yes.
29. The UC asks, "Is it to late 4 taxes" (i.e. whether it was too late in the tax season for Rachael to fabricate a false return, as they discussed last November 2017). Rachael replied, No.

30. The UC then asked if Rachael had “kids I can use.” When the UC met with Rachael last November, Rachael had said that “whatever kids I had already – they already got filed” (i.e. she had already exhausted her list of children to falsely list as dependents).
31. At this point, Rachael asked, who is this? The UC replied with her undercover name and reminded Rachael that Rachael had fabricated the pay stubs for her in Fall 2017 – and that Rachael had told her to come back early this year because it was too late in the tax season for Rachael to do her taxes.
32. Rachael then replied, “Oh okay yes I don’t have any dependents tho.” Based on my training, my experience, and this investigation – including Rachael’s statements in November 2017, I understand this to mean that Rachael may have already exhausted her list of children whom she can falsely add as dependents.

Conclusion

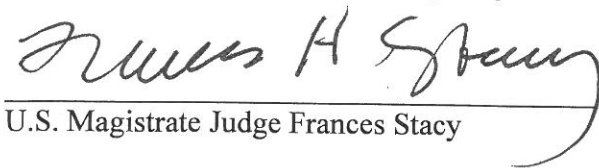
33. For these reasons, I submit there is probable cause to believe that Rachael Johnson has conspired to commit the theft of public money, in violation of 18 U.S.C. § 371 and thus, I ask that a warrant for her arrest be issued.



Aaron Gogley
Special Agent, IRS-CI
FBI Task Force Officer

Sworn to and subscribed before me
on this 22 day of May 2018.

I find sufficient probable cause to justify this warrant.


U.S. Magistrate Judge Frances Stacy